

# Terms of Use

These Terms of Use shall become effective as of September 7, 2022.

## Introduction

This is a legal agreement between you and Lendingfax, LLC., a Delaware corporation ("Lendingfax"), which may be contacted by emailing Support@lendingfax.com. By accessing this website, and any sub-sites of this website (together the "Site"), and/or using any of the Services (as defined below) accessible through the Site, you become a user and agree to, and are bound by, the terms and conditions of this agreement and the Lendingfax Privacy Policy (collectively, "Terms") for as long as you continue to use the Site or Services. IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS, DO NOT USE THE SITE OR THE SERVICES. Your use of, or participation in, certain Services may be subject to additional terms, and such terms will be either listed in the Terms or will be presented to you for your acceptance when you sign up to use such Services or purchase such products. Please check these Terms periodically for changes because we reserve the right, in our sole discretion, to change, modify, add or remove portions of these Terms. Your continued use of the Site following the posting of changes will mean that you accept and agree to the changes. Please see the beginning of the Terms to determine when the Terms were last revised.

As used in these Terms, the following words shall have the following meanings. "Lendingfax" includes "Lendingfax, LLC.", "Lendingfax", "we", "us" and variations such as "our". "Service" includes the products, services and software that you order, receive or access as part of your use of Lendingfax's Sites.

**THESE TERMS STATE THAT ANY DISPUTES BETWEEN YOU AND LENDINGFAX MUST BE RESOLVED IN BINDING ARBITRATION, THAT YOU WAIVE THE RIGHT TO PARTICIPATE IN ANY CLASS ACTION, AND THAT THE LAW OF THE STATE OF TEXAS APPLIES TO ALL INTERACTIONS BETWEEN YOU AND LENDINGFAX. YOU MAY OPT OUT OF ARBITRATION AND THE CLASS ACTION WAIVER BY FOLLOWING THE PROCEDURES IN SECTION 10.G BELOW**

### 1. Description of Services

Lendingfax engages in several business services (the "Services") for which a customer may use the Site. Lendingfax reserves the right to cancel a portion of any of our Services at any time.

#### a. Marketplace Services

First, Lending matches qualified small business owners with active banks, credit unions, and other lending sources (the "Marketplace Services"). Through proprietary matching technology, Lendingfax helps business owners to identify

the business loan category and specific lender(s) that offer the best opportunity for that business owner to prepare for and acquire a business loan. Once prepared, small business owners are then introduced to the most appropriate lending source via our proprietary technology

**b. Business Funding Scoring Services**

- i. Business Funding SCORES. Unless otherwise indicated, all business funding scores furnished with Our Products are Lendingfax Business Funding Scores. By this, We mean that (unless otherwise indicated) all Business Funding scores are prepared by Lendingfax and make use of the Lendingfax Risk Score, which is a proprietary Business Funding score model developed by Lendingfax. When prepared and delivered to You as part of any Product, the Lendingfax Business Funding Score is provided for educational purposes solely to help You understand how lenders may evaluate Your overall credit risk. Therefore, nothing in any of Our Products is an endorsement or a determination of a person's qualification for a loan. Each lender has specific underwriting standards, so You should not assume that You will receive the same evaluation, credit terms or conditions. Lendingfax does not represent that the Lendingfax Business Funding Score is identical or similar to any other score model. Moreover, any estimated score changes predicted by Our Products are only estimates and are provided for educational purposes solely to enable You to determine how future financial decisions (e.g., obtaining new Business Funding) might impact your Business Funding Score. In all instances, the information We use to calculate Your Lendingfax Business Funding Score is derived from Payment Track Record PTR). In addition, Your Lendingfax Business Funding Score may change every time new information is added to or removed from a consumer report as well as with the passage of time.

**ii. Fee**

Our platform requires a fee that a broker or lender will display with our agreement. Services included are.

- Receiving analyzation and a Business Funding Score.
- Your Broker or Lender is able to submit your profile to Crowdfunding lenders, Lines of Credit, Merchant Cash Advances, Credit Card Processing, Freight Factoring and Title Loan companies for Trucking within our Network.

**c. Other miscellaneous services**

Lendingfax may add additional products and services over time, and these Terms of Use shall apply to those additional services.

**2. Use of Site and Service:**

As a user of the Site or a user registered to use any of the Services (a "Registered User"), you agree to the following:

- a. **Exclusive Use.** Your account is to be used only by you and only for your business needs. You may not authorize others to use your account, and you may not assign or otherwise transfer your account to any other person or entity. You acknowledge that Lendingfax is not responsible for third-party access to your account that results from theft or misappropriation of your user name and passwords.
- b. **Information Submitted.** You are solely responsible for, and assume all liability regarding (i) the information and content you provide through your use of the Site and any Services, (ii) the information and content you make available in any manner through the service, and (iii) your interaction with any and all third-parties. Any attempt to enter information to create a duplicate account will be rejected and your account will be put on hold.
- c. **Risk Assumption and Precautions.** You assume all risk when using the Services, including but not limited to all of the risks associated with any interactions with third-parties, including but not limited to any lenders to which you are matched, referred or provided.
- d. **No Guarantees.** Lendingfax may not be able to provide matches for every business seeking to use the Services. Lendingfax makes no guarantees as to the number of matches or the suitability of the business funding for any individual or business which utilizes the Services.
- e. **No False Information.** You agree to provide accurate, true, current and complete information. In the event that Lendingfax determines that the information that is provided is incomplete, fraudulent, false, or otherwise inaccurate, Lendingfax reserves the right to terminate your access to the Services.
- f. **Legal Purpose.** You agree to not use the Site or Services for any illegal purpose. You will only use the Site or Service in accordance with federal, state and local laws.
- g. **Business Purpose.** You agree to only use the Site or Services for a bona fide business purpose. You agree not to use the Site or Services for personal, family or household purposes. You may not use the Site or Services to obtain information about or make decisions about anyone but yourself and/or your business.

**3. Intellectual Property Rights:**

- a. **Ownership of Proprietary Information.** You hereby acknowledge and agree that Lendingfax is the owner of all rights in and to the Site and Services. Federal, state, and local laws and regulations protect these proprietary rights. You are permitted to use the Site and Services only as expressly authorized by these Terms. You may not copy, reproduce, distribute or create derivative works, reverse engineer or reverse compile any of the Site or Services or technology.
  - b. **No Use of Confidential Information.** You will not post, copy, modify, transmit, disclose, show in public, create any derivative works from, distribute, make commercial use of, or reproduce in any way any (i) confidential information or (ii) other copyrighted material, trademarks, or other proprietary information accessible via the Site or Services, without first obtaining the prior written consent of the owner of such proprietary rights.
  - c. **License to Provided Content.** By providing information or content to any account or public area of the Site or Service, you automatically grant, and you represent and warrant that you have the right to grant, to Lendingfax and its users, an irrevocable, perpetual, non-exclusive, fully-paid, worldwide license to use, reproduce, publicly perform, publicly display and distribute such information and content, and to prepare derivative works of, or incorporate into other works, such information and content, and to grant and authorize sub-licenses of the foregoing. From time to time, we may create, test or implement new features or services on the Site in which you may voluntarily choose to participate, in accordance with the additional terms and conditions of such features or programs. By your voluntary participation in such features or programs, you grant us the rights stated in this subsection in connection with the additional terms and conditions (if any) of such features or services.
4. **Links to Third Party Websites and Dealings with Advertisers and Sponsors:**

The Site and Services may contain links to websites of third-parties, including without limitation, advertisers, which are not under the control of Lendingfax, and Lendingfax is not responsible for the content of any linked site or any link contained in a linked site, or any changes or updates to such websites. Lendingfax provides these links to you as a convenience, and the inclusion of any link does not imply that Lendingfax endorses or accepts any responsibility for the content on such third-party websites. Your correspondence or business dealings with, or participation in promotions of, advertisers or third-parties found on or through the Site or Services are solely between you and such advertiser or third-party. You agree that Lendingfax will not be responsible or liable for any loss or damage of any sort incurred as the result of the presence of such advertisers on the Site or Services. Please visit our Privacy Policy to learn more about how we use your information.

5. **Disclaimer of Warranty:**

No Warranties. THIS SECTION WILL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. LENDINGFAX PROVIDES THE SERVICES ON AN "AS IS" AND

"AS AVAILABLE" BASIS AND GRANTS NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE WITH RESPECT TO THE SERVICES OR THE SITE (INCLUDING ALL INFORMATION CONTAINED THEREIN), INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. LENDINGFAX DOES NOT WARRANT THAT YOUR USE OF THE SERVICES WILL BE SECURE, UNINTERRUPTED, ALWAYS AVAILABLE, ERROR-FREE OR WILL MEET YOUR REQUIREMENTS, OR THAT ANY DEFECTS IN THE SERVICES WILL BE CORRECTED. LENDINGFAX DISCLAIMS LIABILITY FOR, AND NO WARRANTY IS MADE WITH RESPECT TO, THE CONNECTIVITY AND AVAILABILITY OF THE SERVICES. Third party content. Third-Party Content. Opinions, advice, statements, offers, or other information or content made available through the Site or Services, but not directly by Lendingfax, are those of their respective authors, and should not necessarily be relied upon. Such authors are solely responsible for such content. LENDINGFAX DOES NOT: (i) GUARANTEE THE ACCURACY, COMPLETENESS OR USEFULNESS OF ANY INFORMATION PROVIDED ON THE SERVICES, OR (ii) ADOPT, ENDORSE OR ACCEPT RESPONSIBILITY FOR THE ACCURACY OR RELIABILITY OF ANY OPINION, ADVICE, OR STATEMENT MADE BY ANY PARTY OTHER THAN LENDINGFAX. UNDER NO CIRCUMSTANCES WILL LENDINGFAX BE RESPONSIBLE FOR ANY LOSS OR DAMAGE RESULTING FROM ANYONE'S RELIANCE ON INFORMATION OR OTHER CONTENT POSTED ON THE SITE OR SERVICES, OR TRANSMITTED TO OR BY ANY USERS.

#### **6. Limitation of Liability:**

Incidental Damages and Aggregate Liability. IN NO EVENT WILL LENDINGFAX BE LIABLE FOR ANY INCIDENTAL, SPECIAL, CONSEQUENTIAL OR INDIRECT DAMAGES ARISING OUT OF OR RELATING TO THE USE OR INABILITY TO USE THE SERVICES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OR CORRUPTION OF DATA OR PROGRAMS, SERVICE INTERRUPTIONS AND PROCUREMENT OF SUBSTITUTE SERVICES, EVEN IF LENDINGFAX KNOWS OR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. UNDER NO CIRCUMSTANCES WILL LENDINGFAX'S AGGREGATE LIABILITY, IN ANY FORM OF ACTION WHATSOEVER IN CONNECTION WITH THIS TERMS OR THE USE OF THE SERVICES OR SITE, EXCEED THE PRICE PAID BY YOU FOR YOUR ACCOUNT OR SUBSCRIPTION, OR, IF YOU HAVE NOT PAID LENDINGFAX FOR THE USE OF ANY SERVICES. No Liability for non-Lendingfax Actions. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL LENDINGFAX BE LIABLE FOR ANY DAMAGES WHATSOEVER, WHETHER DIRECT, INDIRECT, GENERAL, SPECIAL, COMPENSATORY, CONSEQUENTIAL, AND/OR INCIDENTAL, ARISING OUT OF OR RELATING TO THE CONDUCT OF YOU OR ANYONE ELSE IN CONNECTION WITH THE USE OF THE SERVICES.

Information Verification. Lendingfax and its contractors may use various methods of verifying information that users have provided. However, none of those ways are

perfect, and you agree that Lendingfax and its contractors will have no liability to you arising from any incorrectly verified information

**7. Indemnification:**

You agree to indemnify, defend and hold harmless Lendingfax, its officers, directors, employees, agents and third parties, for any losses, costs, liabilities and expenses (including reasonable attorneys' fees) relating to or arising out of (i) your use of or inability to use the Site or Services, (ii) any user postings made by you, (iii) your violation of any terms of these Terms or your violation of any rights of a third-party, or (iv) your violation of any applicable laws, rules or regulations. Lendingfax reserves the right, at its own cost, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will fully cooperate with Lendingfax in asserting any available defenses.

**8. Refunds: No Refunds or Exchanges All Sales are Final.**

**9. Dispute Resolution by Binding Arbitration:**

In the interest of resolving disputes between you and Lendingfax in the most expedient and cost-effective manner, you and Lendingfax agree that either party, at any time, may opt to adjudicate their disputes through binding arbitration instead of in courts of general jurisdiction ("Agreement to Arbitrate"). Arbitration is more informal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, condenses discovery, and is subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. Any arbitration under these Terms will take place on an individual basis; class arbitrations and class actions are not permitted. You acknowledge and agree that the arbitrator may award relief (including monetary, injunctive, and declaratory relief) only in favor of the individual party seeking relief and only to the extent necessary to provide relief necessitated by that individual party's claim(s). Any relief awarded cannot affect other users.

You further agree and understand that any and all disputes, whether heard before a court of competent jurisdiction, or an arbitrator, shall be done solely on an individual basis, and that you affirmatively waive your right to participate in a class action to resolve any dispute (as defined below) that you may have with Lendingfax.

You understand that by entering into this agreement, you and Lendingfax are each waiving the right to a trial by jury or to participate in a class action:

- a. **Claims To Be Resolved By Binding Arbitration.** You and Lendingfax agree to arbitrate all disputes and claims between us. This agreement to arbitrate is intended to be broadly interpreted. It includes, but is not limited to: claims arising out of or relating to any aspect of the relationship between us, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal

theory; claims that arose before this or any prior Terms; claims that are currently the subject of purported class action litigation in which you are not a member of a certified class; and claims that may arise after the termination of these Terms.

- b. Exceptions. Notwithstanding Section 10(a), you and Lendingfax agree that no statement herein shall be deemed to waive, preclude, or otherwise limit either party's right to (i) pursue enforcement actions through applicable federal, state, or local agencies where such actions are available; (ii) seek injunctive relief in any competent court of law; or (iii) to file suit in a court of law to address intellectual property infringement claims.
- c. Arbitrator. Any arbitration between you and Lendingfax will be governed by the Commercial Dispute Resolution Procedures (collectively, "AAA Rules") of the American Arbitration Association ("AAA"), as modified by these Terms, and will be administered by the AAA. The AAA Rules and filing forms are available online at [www.adr.org](http://www.adr.org), by calling the AAA at 1-800-778-7879.
- d. Notice and Process. A party who intends to seek arbitration must first send to the other, by certified mail, a written Notice of Dispute ("Notice"). The Notice to Lendingfax should be sent to [arbitration@Lendingfax.com](mailto:arbitration@Lendingfax.com) The Notice must (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought ("Demand"). If you and Lendingfax do not reach an agreement to resolve the claim within 30 days after the Notice is received, you or Lendingfax may commence an arbitration proceeding.
- e. Fees. In the event that you commence arbitration in accordance with these Terms, Lendingfax will, at your request, reimburse you for your payment of the arbitration filing fee, unless your claim is for greater than \$10,000, in which case the payment of any fees shall be decided by the AAA Rules. Any request for payment of fees by Lendingfax should be submitted by mail to the AAA along with your Demand for Arbitration and Lendingfax will make arrangements to pay all necessary fees directly to the AAA. In the event the arbitrator determines the claim(s) you assert in the arbitration to be frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), you agree to reimburse Lendingfax for all fees associated with the arbitration paid by Lendingfax on your behalf that you otherwise would be obligated to pay under the AAA's rules.

If your claim is for \$10,000 or less, you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a non-appearance based telephonic hearing, or by an in-person hearing as established by the AAA Rules.

Any in-person arbitration hearings will take place at a location to be agreed upon in Harris County, Texas. Regardless of the manner in which the arbitration is conducted, the arbitrator shall issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the decision and award,

if any, are based. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees or expenses at any time during the proceeding and upon request from either party made within 14 days of the arbitrator's ruling on the merits.

- f. No Class Actions. Unless both you and Lendingfax agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding.

YOU AND LENDIGFAX AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING:

- g. Opt-Out. If you are a new Lendingfax user, you can choose to reject the arbitration agreement contained in this Section 10 ("opt-out") by emailing us a opt-out notice ("Opt-Out Notice"). The Opt-Out Notice must be postmarked no later than thirty (30) days after the date you accept these Terms for the first time. You must mail the Opt-Out Notice to the Notice Address listed in Section 10(d), above.

The Opt-Out Notice must contain your name, address (including street address, city, state and zip code), and the user name(s) and email address(es) associated with the Lendingfax account(s) to which the opt-out applies. You must sign the Opt-Out Notice for it to be effective. This procedure is the only way you can opt out of the Agreement to Arbitrate. If you opt out of the Agreement to Arbitrate, all other parts of the Terms will continue to apply to you. Opting out of this Agreement to Arbitrate has no effect on any previous, other, or future arbitration agreements that you may have with Lendingfax.

- h. Modifications. If Lendingfax makes any future change to this Agreement to Arbitrate (other than a change to the Notice Address), you may reject any such change by sending us written notice within 30 days of the change to the Notice Address provided above. You acknowledge and agree that, in the event you reject any future change, your account with Lendingfax shall be immediately terminated and you will arbitrate any dispute between us in accordance with the language of this provision.
- i. Severability and Enforceability. If an arbitrator or court decides that any part of this Section 10 is invalid or unenforceable, the other parts of this Section 10 shall still apply. If the entirety of this Section 10 is found to be unenforceable, then the parties agree that the exclusive jurisdiction and venue described in Section 15 shall govern any action arising out of or related to these Terms, and that the remainder of the Terms will continue to apply.

**10. Telephone communications and agreement to be contacted:**



Providing Telephone Numbers and Other Contact Information. You verify that any contact information provided to Lendingfax, including, but not limited to, your name, mailing address, email address, your residential or business telephone number, and/or your mobile telephone number, is true and accurate. You verify that you are the current subscriber or owner of any telephone number that you provide. You are strictly prohibited from providing a phone number that is not your own. If we discover that any information provided in connection with your registration is false or inaccurate, we may suspend or terminate your account at any time. Should any of your contact information change, including ownership of your telephone numbers, you agree to immediately notify us before the change goes into effect by replying STOP to any text message you receive from us, via email to [privacy@lendingfax.com](mailto:privacy@lendingfax.com).

Your Consent to Receive Automated Calls/Texts. You acknowledge that by voluntarily providing your telephone number(s), you expressly agree to receive artificial voices, prerecorded voice messages, and/or autodialed calls and text messages (such as SMS, MMS, or successor protocols or technologies) from Lendingfax, and third-parties acting on its behalf, related to promotions, your account, any application or transaction, and/or your relationship with Lendingfax. You acknowledge that automated calls or text messages may be made to your telephone number(s) even if your telephone number(s) is registered on any state or federal Do Not Call list. You agree that Lendingfax may obtain, and you expressly agree to be contacted at, any email addresses, mailing addresses, or phone numbers provided by you or your representative at any time or obtained through other lawful means, such as skip tracing, caller ID capture, or other means. You agree to receive automated calls and text messages from Lendingfax, even if you cancel your account or terminate your relationship with us, except if you opt-out (see below). You understand that you do not have to agree to receive automated promotional calls/texts as a condition of purchasing any goods or services or account creation. If you do not consent, you may send an email to [privacy@lendingfax.com](mailto:privacy@lendingfax.com) to further inquire about our products and services. To opt-out, please see the Opt-Out Instructions below.

Opt-Out Instructions. Your consent to receive automated calls and texts is completely voluntary. You may opt-out at any time. To opt-out of text messages, reply STOP to any text message you receive from us. You may also text HELP for help. You acknowledge and agree to accept a final text message confirming your opt-out. We may use different short codes for different messaging purposes, so texting STOP to one short code will not effectuate a stop request for all short codes to which you are subscribed. If you would like to stop messages from multiple short codes, reply STOP to each short code to which you would like to unsubscribe. Alternatively, you may [privacy@lendingfax.com](mailto:privacy@lendingfax.com) advising that you want to opt out of text messages and specifying the phone number(s) for which that opt-out should apply To opt-out of automated voice calls (not text messages), you must (i) provide us with written notice revoking your consent to receiving automated calls; (ii) in that written notice, you must include your full name, mailing address, account number, and the specific phone

number(s) for which you wish to stop automated calls; and (iii) send this written notice to [privacy@lendingfax.com](mailto:privacy@lendingfax.com). It is your sole responsibility to notify us if you no longer want to receive automated calls or text messages. You waive any rights to bring claims for unauthorized or undesired calls or text messages by failing to opt-out immediately or by failing to follow these instructions. Please allow up to thirty (30) days to process any opt-out request. Please note that if you opt out of automated calls or text messages, we reserve the right to make non-automated calls to you. It is possible that third parties may have your contact information and you may continue to receive communications from these third parties despite an opt out request. We are not responsible for unwanted contact from third parties. Please contact third parties directly to inform them of your communication preferences.

**Fees and Charges.** There is no fee to receive automated telephone calls or text messages from Lendingfax. However, you may incur a charge for these calls or text messages from your telephone carrier, which is your sole responsibility. Message and data rates may apply. Check your telephone plan and contact your carrier for details. You represent and warrant that you are authorized to incur such charges and acknowledge that Lendingfax is not responsible for such charges.

**Unauthorized Use of Your Telephone Device.** You must notify Lendingfax immediately of any breach of security or unauthorized use of your telephone device. Although Lendingfax will not be liable for losses caused by any unauthorized use of your telephone device, you may be liable for our losses due to such unauthorized use.

**Your Indemnification to Us.** You agree to indemnify Lendingfax for any privacy, tort or other claims, including claims under the Federal Telephone Consumer Protection Act or its state law equivalent, including claims relating to your voluntary provision of a telephone number that is not owned by you and/or your failure to notify us of any changes in your contact information, including telephone number. You agree to indemnify, defend and hold us harmless from and against any and all such claims, losses, liabilities, costs and expenses (including reasonable attorneys' fees). We shall have the exclusive right to choose counsel, at your expense, to defend any such claims.

**Release of Claims.** In consideration of the services provided by Lendingfax, you hereby release Lendingfax from any and all claims, causes of action, lawsuits, injuries, damages, losses, liabilities or other harms resulting from or relating to telephone calls or text messages, including without limitation any claims, causes of action, or lawsuits based on any alleged violations of the law (including, without limitation, the Telephone Consumer Protection Act, Truth in Caller ID Act, Telemarketing Sales Rule, Fair Debt Collection Practices Act, or any similar state and local acts or statutes, and any federal or state tort or consumer protection laws).

**General.** You are responsible for obtaining and maintaining all telephone devices and other equipment and software, and all internet service providers, mobile service, and

other services needed to receive calls and text messages. Text messaging may only be available with select carriers with compatible handsets. Your obligations under this Section will survive termination of these Terms of Service.

Text message Terms and Conditions:

**By "Opting In" to or using a Lendingfax Text Message Service ("SMS Service"), you accept these Terms and Conditions and agree to resolve disputes with Lendingfax through binding arbitration (and with very limited exceptions, not in court), and you waive any right to participate in class actions, all as detailed in Section 10 entitled "Dispute Resolution by Binding Arbitration; Class Action Waivers" section Lendingfax's Terms of Use.**

- a. By opting In to Lendingfax's Text Message Service, you authorize and agree to allow Lendingfax to use an autodialer or non-autodialer technology to send text message to the cell phone number associated with your Opt-In (i.e., the number listed on the Opt-In form or instructions, or, if none, the number form which you send the Opt-In, or, if none, the number on file for the account associated with your Opt-In). You authorize Lendingfax to include marketing content in any such messages. You do not have to Opt-In or agree to Opt-In as a condition of purchase or service.

You confirm that you are the subscriber to the relevant phone number or that you are the customary user of that number on a family or business plan and that you are authorized to Opt-In.

After Opting-In, in addition to the main messages the service offers, you may receive one or more welcome messages or administrative messages, such as (in some cases) a request to confirm your Opt-In.

- b. You can cancel the SMS service at any time. Just text "STOP" to the short code. After you send the SMS message "STOP" to us, we will send you an SMS message to confirm that you have been unsubscribed. After this, you will no longer receive SMS messages from us. If you want to join again, just sign up as you did the first time and we will start sending SMS messages to you again.
- c. If you are experiencing issues with the messaging program you can reply with the keyword HELP for more assistance, or you can get help directly at [support@Lendingfax.com](mailto:support@Lendingfax.com).
- d. Carriers are not liable for delayed or undelivered messages
- e. As always, message and data rates may apply for any messages sent to you from us and to us from you. You will receive up to 15 messages/month. If you have any questions about your text plan or data plan, it is best to contact your wireless provider.

- f. If you have any questions regarding privacy, please read our privacy policy:  
<https://lendingfax.com/agreements/privacy-policy/>

#### **11. General Provisions:**

Controlling Law and Jurisdiction. You agree that Texas law (without giving effect to its conflicts of law principles) will govern these Terms, the Site and the Services and that any dispute arising out of or relating to these Terms, the Site or the Services will be subject to the exclusive jurisdiction and venue of the federal and state courts in Harris County, Texas. You acknowledge and agree that any violation of these Terms may cause Lendingfax irreparable harm, and therefore agree that Lendingfax will be entitled to seek extraordinary relief in court, including but not limited to temporary restraining orders, preliminary injunctions and permanent injunctions without the necessity of posting a bond or other security, in addition to and without prejudice to any other rights or remedies that Lendingfax may have for a breach of these Terms. These Terms, which you accept upon registration for the Services, the Privacy Policy located on the Site, and any applicable payment, renewal, additional services terms, comprise the entire agreement between you and Lendingfax regarding the use of this Service, superseding any prior agreements between you and Lendingfax related to your use of this Site or Services (including, but not limited to, any prior versions of this Terms). The FAQ's found on the Services are for informational purposes only and are not deemed to be part of this Terms. Unless otherwise explicitly stated, the Terms will survive termination of your registration to the Service. The failure of Lendingfax to exercise or enforce any right or provision of these Terms does not constitute a waiver of such right or provision. If any provision of these Terms is held invalid, the remainder of the Terms will continue in full force and effect. Regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to the use of the Site or the Terms must be filed within one (1) year after such claim or cause of action arose or be forever barred. The section titles in the Terms are for convenience only and have no legal or contractual effect.

#### **12. User Information:**

- a. Privacy Policy. For information about the collection and possible use of information and material provided by you, please visit Lendingfax's Privacy Policy located on the Site. By using the Site or the Services, you are consenting to the terms of Lendingfax's Privacy Policy.
- b. Disclosure by Law. You acknowledge and agree that Lendingfax may disclose information you provide if required to do so by law, at the request of a third-party, or if we, in our sole discretion, believe that disclosure is reasonable to (i) comply with the law, requests or orders from law enforcement, or any legal process (whether or not such disclosure is required by applicable law); or (ii) protect or defend Lendingfax's, or a third-party's, rights or property.
- c. Information Security. We work hard to protect Lendingfax and our users from unauthorized access to or unauthorized alteration, disclosure or destruction of information we hold. In particular:

- i. We encrypt many of our services using industry standard methods.
  - ii. We review our information collection, storage and processing practices, including physical security measures, to guard against unauthorized access to systems.
  - iii. We restrict access to personal information to Lendingfax's employees, contractors and agents who need to know that information in order to process it for us, and who are subject to strict contractual confidentiality obligations and may be disciplined or terminated if they fail to meet these obligations.
- d. Use of Anonymous Information for Research. By using the Site and/or Services, you agree to allow Lendingfax to anonymously use the information from you and your experiences through the Services to continue Lendingfax's research into successful business practices and to improve the Services.
- e. License Regarding Your Content. You retain all ownership interest in and to the content you provide to the Site or as part of your use of the Services. However, by submitting your content, including your personal and business information, you hereby grant to Lendingfax a perpetual, non-exclusive, irrevocable, royalty-free license to reproduce, adapt, edit, modify, translate, publish, transfer, and/or distribute any of your content. This license specifically includes the right for Lendingfax to make such content available to other trusted companies, organizations, and/or individuals with whom Lendingfax has a business relationship in order to carry out the performance of the Services. As part of its performance of the Services, Lendingfax may (i) transmit or distribute your information over various public networks and in various forms; and (ii) make necessary changes to your content in order to perform its obligations.

**13. Content:**

All text, graphics, user interfaces, visual interfaces, photographs, trademarks (whether registered or not), logos, sounds, artwork of any kind, and computer code (collectively, "Content"), including but not limited to the design, structure, coordination, selection, appearance, and arrangement of the Content, contained on the Site is owned by Lendingfax and is protected by trade dress, copyright, trademark, and other property laws and unfair competition laws. Any misuse of the Content will be at your peril and Lendingfax will do all that is lawful to enforce and protect the Content.

**14. Confidentiality:**

We will take every reasonable precaution to protect your account and account information, however, we cannot guarantee the security of any information you disclose. This includes your sharing of account information with any third party, including employees, contractors, vendors, suppliers, etc. of your business. You agree and acknowledge that the security of your data is your responsibility.

Your use of the Services is further governed by our Privacy Policy.

**15. Notification of Terms of Use Changes:**

We may update these Terms of Use to reflect changes to our business operations and the methods by which we work with you, including changing vendors, and other policies relevant to our Services. If we make any material changes we will notify you by email (sent to the email address specified in your account) or by means of a notice on this Site. We encourage you to periodically review this page for the latest information on our Terms of Use. When we make changes to these Terms of Use we will revise the revision date at the top of the Terms of Use.

**16. Term and Termination:**

This agreement will become effective upon your acceptance of the Terms by your use of the Site or Services and will remain in effect in perpetuity unless terminated hereunder. Lendingfax may terminate your account at any time, for any reason or no reason, without explanation, effective upon written notice to the other party. Lendingfax reserves the right to immediately suspend or terminate your access to any of the Services, without notice, for any reason or no reason. We also reserve the right to refuse to remove your account information or data from our Services and any other records at any time to comply with legal and regulatory requirements. In the event your access to any of the Services is suspended due to the breach of these Terms, you agree that all fees then paid to Lendingfax by you will be nonrefundable and all outstanding or pending payments will immediately be due. You may terminate your account by following the steps in the applicable section under "Cancellations." Sections 10 and 11 shall survive any termination of this Agreement.